

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MATTHEW A. SMITH,

Plaintiff,

v.

Case No. 2:14-cv-131
HON. GORDON J. QUIST

UNITED PARCEL SERVICE,

Defendant.

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REPORT AND RECOMMENDATION

Matthew A. Smith filed this complaint against United Parcel Service alleging breach of contract and wrongful termination.¹ Plaintiff is a citizen of Colorado. Plaintiff alleges that defendant is resident of Colorado that has offices in Colorado. Plaintiff relies on 28 U.S.C. § 1367 as providing jurisdiction and proper venue in this Court. Complaints filed *in forma pauperis* are subject to screening pursuant to 28 U.S.C. § 1915(e)(2). *Medina v. Eugenio Painting Co.*, 90 Fed. Appx. 910 (6th Cir. 2004) (copy attached). Furthermore, this Court applies “the now familiar pleading requirements of *Twombly* and *Iqbal* to Rule 12(c) motions . . . that plaintiffs must ‘plead . . . factual content that allows the Court to draw the reasonable inference that the defendant is liable for the misconduct alleged.’” *Patterson v. Novartis Pharmaceuticals Corp.*, 451 Fed. Appx. 495, 497 (6th Cir. 2011) (copy attached). Plaintiff’s complaint fails to establish a basis for jurisdiction and does not meet the pleading requirements of Rule 12.

¹Plaintiff may be asserting claims of civil rights violations, 42 U.S.C. § 1983, and a violation of the Americans With Disabilities Act.

Accordingly, it is rightfully recommended that plaintiff's complaint be dismissed as frivolous pursuant to 28 U.S.C. § 1915(e).

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within fourteen (14) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(c); Fed. R. Civ. P. 72(b); W.D. Mich. LCivR 72.3(b). Failure to file timely objections constitutes a waiver of any further right to appeal. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley
TIMOTHY P. GREELEY
UNITED STATES MAGISTRATE JUDGE

Dated: July 1, 2014